

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERROLL FLANIGAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE WARRANTY GROUP, INC., a
Delaware corporation, and AMERICAN
PROTECTION PLANS, LLC d/b/a American
Residential Warranty, a Florida limited
liability company,

Defendants.

Case No. 1:14-cv-01261

Honorable Jorge L. Alonso

INITIAL STATUS REPORT FOR REASSIGNED CASE

Pursuant to the Court's January 26, 2015 Order (Dkt. 45), Plaintiff Erroll Flanigan ("Plaintiff") and Defendants The Warranty Group, Inc. ("TWG") and American Protection Plans, LLC d/b/a American Residential Warranty ("ARW") (collectively "Defendants") submit this joint report to inform the Court of the status of this case.

I. NATURE OF THE CASE

A. Attorneys of Record

Plaintiff is represented by Jay Edelson, Ari J. Scharg, and John C. Ochoa of Edelson PC.

TWG is represented by Norman K. Beck, Kevin P. McCormick, and Bonnie L. Keane of Winston & Strawn LLP.

ARW is represented by Frank C. Rowland and Storrs W. Downey of Bryce Downey & Lenkov LLC.

B. Basis for Federal Jurisdiction

This Court has jurisdiction of this lawsuit under 28 U.S.C. § 1331 because Plaintiff's

claim will require adjudication of a substantial, disputed question of federal law.

C. Nature of Claims and Relief Sought

This putative class action lawsuit alleges that Defendants TWG and ARW made unsolicited telephone calls to thousands of consumers in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* Plaintiff, on behalf of himself and the proposed class, alleges that these telephone calls were part of a joint telemarketing effort to promote Defendants' home warranty products and services, and seeks an injunction, as well as an award of statutory damages, costs, and reasonable attorneys' fees.

D. Service

All parties have been served.

II. DISCOVERY AND PENDING MOTIONS

A. Pending Motions

There is currently one motion pending before the Court:

On January 22, 2015, the Parties filed a Joint Motion to Stay Case. (Dkt. 42.) The Parties filed this motion because they have a mediation session scheduled with the Hon. Wayne Andersen (Ret.) of JAMS on February 18, 2015. The Parties believe that granting the motion would preserve both the Parties' and the Court's time and resources while the Parties attempt to resolve this lawsuit. Plaintiff filed this motion on January 22, 2015, and noticed it for hearing on January 27, 2015 at 9:30 a.m. The Court continued the hearing to February 12, 2015 at 9:00 a.m. (Dkt. 44.)

B. Discovery

The Parties have completed substantial discovery in this case, which has included exchanging Rule 26(a)(1) disclosures, issuing and responding to written discovery, producing documents, and issuing third-party subpoenas. The Parties have also informally exchanged

information, as well as conducted follow-up discovery conferences that have resulted in the production of additional documents.

The Court's current scheduling order (entered in response to the Parties' Joint Motion for Extension of Time) set the fact discovery deadline for February 3, 2015. (Dkt. 37.) Pursuant to the scheduling order, Plaintiff's deadline to serve his expert disclosures and reports is February 20, 2015, Defendants' deadline to serve their expert disclosures and reports is March 20, 2015, and the expert discovery deadline is April 15, 2015. As noted in the previous section, the Parties have moved to stay the case. (Dkt. 42.)

If the Parties are not able to reach a settlement at the scheduled mediation session, they will require time to complete follow-up depositions and resolve discovery disputes that are currently the subject of ongoing discussions. The Parties believe that extending the deadlines for a period of sixty (60) days, as requested in the Parties' Motion to Stay would provide enough time to complete this outstanding discovery.

C. Substantive Rulings

Judge Der-Yeghiayan has not issued any substantive rulings.

III. TRIAL

The Parties have demanded a jury trial. No dates have been set for a final pretrial order or trial. The Parties anticipate being ready for trial by October 2015. The Parties estimate that the trial will be five days long.

IV. SETTLEMENT AND REFERRALS

The Parties are scheduled to hold a private mediation session with the Honorable Wayne Andersen (Ret.) of JAMS. As such, the Parties do not request a settlement conference at this time before this Court or the Magistrate Judge. Counsel for the Parties have informed their respective clients about the possibility of proceeding before the Magistrate Judge in this case for all

purposes. The Parties do not unanimously consent to such a procedure.

Dated: February 5, 2015

Respectfully submitted,

ERROLL FLANIGAN, individually
and on behalf of all others similarly situated,

By: /s/ John C. Ochoa

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THE WARRANTY GROUP, INC.

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Respectfully submitted,

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By: /s/ Frank C. Rowland

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CERTIFICATE OF SERVICE

I, John C. Ochoa, an attorney, hereby certify that on February 5, 2015, I served the above and foregoing ***Initial Status Report for Reassigned Case*** by causing true and accurate copies of such paper to be transmitted to all counsel of record via the Court's CM/ECF electronic filing system, on this the 5th day of February, 2015.

/s/ John C. Ochoa
